

COMMITTEE SUBSTITUTE

FOR

**H. B. 2945**

---

(BY DELEGATE(S) MR. SPEAKER (MR. THOMPSON) ,  
CAPUTO, BOGGS, LYNCH, YOUNG, SKINNER, TOMBLIN,  
BARRETT, SPONAUGLE, WHITE AND MILEY)

---

(Originating in the Committee on Finance)

[March 21, 2013]

A BILL to amend and reenact §12-4-14a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-3-33a, all relating to the distribution of state funds to volunteer fire departments under the Volunteer Fire Department Workers' Compensation Subsidy Program generally; specifying that the subsidy provided to volunteer fire departments to offset certain workers' compensation premium increases apply to increases attributable to the fire fighting service, rapid response emergency medical service, ambulance service and diving service

components of the services provided by volunteer fire departments; establishing the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund and directing that certain moneys be deposited into the fund for the program; and requiring reviews, assessments and reports to the Legislature prior to termination of the program.

*Be it enacted by the Legislature of West Virginia:*

That §12-4-14a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §33-3-33a, all to read as follows:

**CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

**ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

**§12-4-14a. Workers' Compensation Subsidy for Volunteer Fire Departments; creation of program; Auditor to administer.**

- 1 (a) For the purposes of this section:
- 2 (1) "Fiscal year" means the fiscal year of the state.
- 3 (2) "Individual base year premium" means the ~~workers'~~
- 4 ~~compensation insurance~~ individual premium that became due
- 5 and payable by a volunteer fire department after June 30, 2010,
- 6 but before July 1, 2011.

7 (3) “Individual premium” means the workers’ compensation  
8 insurance premium due and payable by a volunteer fire depart-  
9 ment for fire fighting services, rapid response emergency  
10 medical services, ambulance services or diving services provided  
11 by the volunteer fire department in each twelve month period  
12 beginning on or after July 1, 2011.

13 (4) “Total base year premium” means the aggregate workers’  
14 compensation insurance premium due and payable by all  
15 volunteer fire departments for fire fighting services, rapid  
16 response emergency medical services, ambulance services or  
17 diving services provided by the volunteer fire departments as  
18 determined by the Insurance Commissioner after June 30, 2010,  
19 but before July 1, 2011.

20 (5) “Total premium” means the aggregate workers’ compen-  
21 sation insurance premium due and payable by all volunteer fire  
22 departments for fire fighting services, rapid response emergency  
23 medical services, ambulance services or diving services provided  
24 by the volunteer fire departments in each twelve month period  
25 beginning on or after July 1, 2011.

26 (b) In recognition of the burden of increasing workers’  
27 compensation insurance premiums on volunteer fire depart-

28 ments, the Legislature has determined that additional funding  
29 assistance should be made available to eligible departments to  
30 pay a portion of those premium increases beginning with  
31 invoices due and payable on or after July 1, 2011.

32 (c) There is hereby established a special program which shall  
33 be known as the “Volunteer Fire Department Workers’ Compen-  
34 sation Subsidy Program.” The program shall be administered by  
35 the State Auditor from moneys that may be appropriated and  
36 designated for the program by the Legislature pursuant to this  
37 section and section thirty-three-a, article three, chapter thirty-  
38 three of this code.

39 (d) The State Auditor shall administer the distribution of  
40 moneys appropriated for Volunteer Fire Department Workers’  
41 Compensation Subsidy Program to volunteer fire departments to  
42 help defray workers’ compensation insurance premium in-  
43 creases.

44 (1) Volunteer fire departments shall request supplemental  
45 funds by submitting to the Auditor the following information:

46 (A) The previous fiscal year’s workers’ compensation  
47 premium invoices with paid receipts;

48 (B) The current fiscal year's workers' compensation  
49 premium invoices showing the amount due and due date and any  
50 applicable paid receipts; and

51 (C) Any other information the Auditor deems necessary for  
52 administering the subsidy on forms and schedules as the Auditor  
53 directs. The Auditor is authorized to set up an electronic filing  
54 system at his or her discretion for filing of the aforementioned  
55 information.

56 (2) After determining that there is a premium increase and  
57 the amount of the premium increase for the volunteer fire  
58 department requesting the subsidy, the Auditor shall make  
59 disbursements in the manner set forth in subsection (e) of this  
60 section subject to the following requirements:

61 (A) The volunteer fire department must be in good standing  
62 with the State Fire Marshal;

63 (B) The volunteer fire department must be registered with  
64 the Auditor's Office in a form and manner prescribed by the  
65 Auditor prior to being eligible for consideration of any subsidy,  
66 which registration must be completed no fewer than thirty days  
67 prior to the due date of the workers' compensation premium;

68 (C) The volunteer fire department must agree that the  
69 subsidy for its workers' compensation insurance premium  
70 increase will be paid directly to its insurance carrier by the  
71 Auditor and that it will timely pay the balance of the premium  
72 due; and

73 (D) Should a volunteer fire department fail to pay the  
74 balance of its workers' compensation insurance premium after  
75 a disbursement by the Auditor and that insurance policy is  
76 subsequently cancelled, the premium paid by the Auditor shall  
77 be returned directly to him or her. If the Auditor does not receive  
78 a reimbursement for a cancelled policy, he or she shall seek  
79 reimbursement for the subsidy portion of the insurance premium  
80 from the State Treasurer when the Treasurer makes the next  
81 quarterly payment to the volunteer fire department pursuant to  
82 sections thirty-three and fourteen-d, article three, chapter thirty-  
83 three of this code.

84 (e) Beginning with the fiscal year that starts July 1, 2011,  
85 and continuing in each fiscal year thereafter, after the Auditor  
86 has verified that a volunteer fire department is eligible for a  
87 subsidy pursuant to this section, he or she shall pay on behalf of

88 a volunteer fire department its subsidy, which is calculated by:

89 (1) Dividing the total amount of premium subsidy allocated  
90 by the Legislature to the Volunteer Fire Department Workers'  
91 Compensation Subsidy Program by the total premium minus the  
92 total base year premium, which calculation produces the "total  
93 shortfall multiplier"; and

94 (2) Multiplying the total shortfall multiplier determined in  
95 subdivision (1) of this subsection by the individual premium less  
96 the individual base year premium.

97 (3) In no event shall a volunteer fire department receive a  
98 workers' compensation premium subsidy greater than one  
99 hundred percent of its premium increase.

100 (f) For fiscal years after July 1, 2011, the Auditor shall  
101 consult with the Insurance Commissioner to determine the total  
102 amount of workers' compensation premium due by volunteer  
103 fire departments for any subsequent fiscal year. The Auditor may  
104 determine payment dates based upon information reasonably  
105 available for such a determination.

106 (g) The Auditor may promulgate emergency rules and may  
107 propose for promulgation legislative rules, in accordance with

108 the provisions of article three, chapter twenty-nine-a of this code,  
109 as are necessary to provide for implementation and enforcement  
110 of the provisions of this section.

111 (h) The volunteer fire departments' workers' compensation  
112 premium subsidy program shall undergo a review to assess its  
113 effectiveness after three years of operation. The Auditor shall  
114 submit a report to the Joint Committee on Government and  
115 Finance not later than February 1, 2015, and provide details of  
116 the program operation including funds distributed and depart-  
117 ments taking advantage of the subsidy.

## CHAPTER 33. INSURANCE.

### ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

**§33-3-33a. Excess moneys of Fire Protection Fund deposited into  
Volunteer Fire Department Workers' Compensation  
Premium Subsidy Fund; other funding; special  
report from State Fire Marshal by December 15,  
2015; termination of program June 30, 2016.**

1 (a) There is hereby established a special fund in the State  
2 Treasury known as the "Volunteer Fire Department Workers'  
3 Compensation Premium Subsidy Fund." The fund shall be  
4 administered by the State Auditor and shall consist of moneys  
5 deposited in the fund pursuant to this section, any other funds



6 appropriated by the Legislature for volunteer fire departments  
7 for the purposes of section fourteen-a, article four, chapter  
8 twelve of this code, and the interest or other earnings on the  
9 moneys in the fund. The State Auditor shall administer the  
10 distribution of moneys of the fund to volunteer fire departments  
11 to help defray workers' compensation insurance premium  
12 increases pursuant to section fourteen-a, article four, chapter  
13 twelve of this code. Balances in the fund at the end of any fiscal  
14 year shall not expire, but shall be expended for those purposes in  
15 ensuing fiscal years pursuant to appropriation of the Legislature.

16 (b) Beginning July 1, 2013, and in each fiscal year thereafter  
17 until June 30, 2016, the excess of the aggregate of amounts  
18 collected by the commissioner that are otherwise required under  
19 any provision of this code to be deposited into the Fire Protec-  
20 tion Fund over the aggregate of those amounts deposited into the  
21 Fire Protection Fund during the fiscal year ending June 30, 2013,  
22 shall be deposited into the Volunteer Fire Department Workers'  
23 Compensation Premium Subsidy Fund and expended solely for  
24 the purposes established in section fourteen-a, article four,  
25 chapter twelve of this code.

26 (c) On or before August 1, 2013, the commissioner shall  
27 transfer \$7.5 million from the Fire Marshal Fees Fund created  
28 under section twelve-b, article three, chapter twenty-nine of this  
29 code to the Volunteer Fire Department Workers' Compensation  
30 Premium Subsidy Fund and expended solely for the purposes  
31 established in section fourteen-a, article four, chapter twelve of  
32 this code until June 30, 2016.

33 (d) The State Fire Marshal, in consultation with the Insur-  
34 ance Commissioner, the State Auditor, the Secretary of Revenue  
35 and the Legislative Auditor, shall conduct a review of the needs  
36 of each volunteer or part volunteer fire company or volunteer  
37 fire department serving in the various counties of the state. On  
38 or before December 31, 2015, the State Fire Marshal shall  
39 submit to the Joint Committee on Government and Finance a  
40 comprehensive report of the review and the State Fire Marshal's  
41 recommendations, substantiated by the findings of the review, of  
42 steps that may be taken to meet the needs of and sustain the  
43 volunteer and part volunteer fire companies and volunteer fire  
44 departments of this state, including, but not limited to, the  
45 following:

46       (1) An assessment of all current funding received by the  
47 volunteer fire companies and departments, and a further assess-  
48 ment of the funding necessary to provide the community  
49 protections required for the areas served by the volunteer fire  
50 companies and departments, the extent to which those needs are  
51 being met, the extent to which they are not being met, and  
52 recommendations of sources of funds to meet additional needs  
53 and the amounts needed, if any;

54       (2) An assessment of the cost of workers' compensation  
55 coverage for the volunteer fire companies and departments and  
56 recommendations for any actions that may be undertaken by the  
57 volunteer fire companies and departments and others to reduce  
58 those costs;

59       (3) An assessment of the causes of any decline in recruit-  
60 ment and retention of volunteer firefighters and recommenda-  
61 tions for improvements in this area, including any recommenda-  
62 tions for incentives that have a demonstrated record of signifi-  
63 cant increases in recruitment and retention as well as recommen-  
64 dations of sources of funds to provide those incentives, if funds  
65 are necessary;

66       (4) An assessment of the level of financial accountability  
67 that should be required of volunteer fire companies and depart-  
68 ments in order to provide the Legislature the information  
69 necessary to target future funding for their activities based upon  
70 the safety and fire protection needs of the various areas of the  
71 state;

72       (5) An assessment of the comparative levels of funding for  
73 volunteer fire companies and departments provided by counties,  
74 municipalities and other political subdivisions and the means by  
75 which that funding is provided, including identification of those  
76 which contribute little or no funding to the volunteer fire  
77 companies and departments within their jurisdictions, together  
78 with recommendations for increasing those levels of contribu-  
79 tions;

80       (6) An assessment of the comparative levels of funding for  
81 volunteer fire companies and departments provided by their own  
82 efforts, and the means by which that funding is provided,  
83 including identification of those which provide little or no  
84 funding through their own efforts, together with recommenda-  
85 tions for increasing these sources of funding;

86 (7) An assessment of the comparative economic and other  
87 benefits provided by the various volunteer fire companies and  
88 departments to their particular counties, municipalities and other  
89 political subdivisions, as well as to citizens of the local commu-  
90 nities they serve;

91 (8) An assessment of the sustainability of the current model  
92 of providing fire and other protections to the citizens of rural  
93 communities through volunteer fire companies and departments  
94 and an assessment of alternative models for providing those  
95 protections; and

96 (9) Other assessments and recommendations which the State  
97 Fire Marshal deems appropriate in the circumstances.

98 (d) Upon the conclusion of the fiscal year ending June 30,  
99 2016, the provisions of this section and section fourteen-a, article  
100 four, chapter twelve of this code shall expire and be of no further  
101 force and effect and the Volunteer Fire Department Workers'  
102 Compensation Premium Subsidy Fund shall be closed. Upon  
103 closure of the fund, from any balances therein remaining, the  
104 State Auditor shall first, to the extent available, transfer to the  
105 Fire Protection Fund an amount equal to the aggregate of funds

106 deposited into the Volunteer Fire Department Workers' Com-  
107 pensation Premium Subsidy Fund during the fiscal years ending  
108 June 30, 2014, 2015 and 2016 pursuant to subsection (b) of this  
109 section that would otherwise have been required to be deposited  
110 into the Fire Protection Fund, and any balances thereafter  
111 remaining in the Volunteer Fire Department Workers' Compen-  
112 sation Premium Subsidy Fund shall expire to the General  
113 Revenue Fund of the state.



